

SENATE BILL NO. 5

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATORS DAVIS, Ellis

Introduced: 1/21/03

Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to recommending or refusing psychotropic drugs or certain types of**
2 **evaluations or treatments for children."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 14.30 is amended by adding new sections to read:

5 **Article 2A. Psychiatric and Behavioral**
6 **Evaluations and Treatments.**

7 **Sec. 14.30.171. Prohibited actions.** Except as provided in AS 14.30.172 -
8 14.30.176, school personnel may not

9 (1) recommend to a parent or guardian that a child take or continue to
10 take a psychotropic drug as a condition for attending a public school;

11 (2) require that a child take or continue to take a psychotropic drug as a
12 condition for attending a public school;

13 (3) conduct a psychiatric or behavioral health evaluation of a child;

14 (4) recommend a specific licensed physician, psychologist, or other

1 health specialist to a parent or guardian for a child;

2 (5) recommend that a parent or guardian seek or use any of the
3 following:

4 (A) the administration of a psychotropic medication to a child;

5 (B) a psychiatric or psychological treatment for a child; or

6 (C) a psychiatric evaluation of a child; or

7 (6) make a report of suspected child abuse or neglect to authorities,
8 including the Department of Health and Social Services, based solely on the fact that a
9 parent or guardian refuses to consent to

10 (A) the administration of a psychotropic drug to a child;

11 (B) a psychiatric, psychological, or behavioral treatment of a
12 child; or

13 (C) a psychiatric or behavioral health evaluation of a child.

14 **Sec. 14.30.172. Communication not prohibited.** Nothing in AS 14.30.171
15 may be construed to prohibit school personnel from

16 (1) communicating information to other school personnel about a
17 child;

18 (2) exercising their authority relating to the placement within the
19 school or readmission of a child who may be or has been suspended or expelled for a
20 violation of a school disciplinary and safety program adopted under AS 14.33.110 -
21 14.33.140; or

22 (3) informing a child's parent or guardian of a perceived behavioral
23 problem of the child as long as the school personnel do not

24 (A) make an assertion or recommendation that violates
25 AS 14.30.171; or

26 (B) attempt to denigrate, criticize, or punish a parent, guardian,
27 or child for a decision made by the parent or guardian for the child to take, not
28 take, or discontinue to take a psychotropic drug.

29 **Sec. 14.30.174. Compliance with federal law.** Notwithstanding
30 AS 14.30.171(3) and (5), a mental health professional working within a public school
31 system may, for the sole purpose of complying with federal education law,

1 (1) recommend, but not require, a psychiatric or behavioral health
2 evaluation of a child;

3 (2) recommend, but not require, psychiatric, psychological, or
4 behavioral treatment for a child; and

5 (3) conduct a psychiatric or behavioral health evaluation of a child
6 with the consent of the child's parent or guardian.

7 **Sec. 14.30.176. List of community resources.** Notwithstanding
8 AS 14.30.171(4), a school district may make available to an interested parent or
9 guardian a list of community resources, including mental health services if the list
10 conspicuously states the following: "This list is provided as a resource to you. The
11 school neither recommends nor requires that you use this list or any of the services
12 provided by individuals or entities on the list. It is for you to decide what services, if
13 any, to use and from whom you wish to obtain them."

14 **Sec. 14.30.177. Violations.** (a) A violation of AS 14.30.171 - 14.30.176
15 constitutes substantial noncompliance with a school law of the state for purposes of
16 dismissal of a teacher under AS 14.20.170 or nonretention of a teacher under
17 AS 14.20.175.

18 (b) Each school board shall adopt a bylaw under AS 14.14.100 that provides
19 that violation of AS 14.30.171 - 14.30.176 is grounds for disciplinary action against a
20 person employed by the school district.

21 **Sec. 14.30.179. Definitions.** In AS 14.30.171 - 14.30.179,

22 (1) "federal education law" means 20 U.S.C. 1400 - 1487 (Individuals
23 with Disabilities Education Act), 20 U.S.C. 7101 - 7143 (Safe and Drug-Free Schools
24 and Communities Act of 1994), 29 U.S.C. 794 (nondiscrimination under federal grants
25 and programs), and 42 U.S.C. 12101 - 12213 (equal opportunity for individuals with
26 disabilities);

27 (2) "mental health professional" has the meaning given in
28 AS 47.30.915;

29 (3) "public school" means a school operated by publicly elected or
30 appointed school officials in which the program and activities are under the control of
31 those officials and that is supported by public funds.

1 * **Sec. 2.** AS 47.10.019 is amended to read:

2 **Sec. 47.10.019. Limitations on determinations.** **(a)** Notwithstanding other
3 provisions of this chapter, the court may not find a minor to be a child in need of aid
4 under this chapter solely on the basis that the child's family is poor, lacks adequate
5 housing, or exhibits a lifestyle that is different from the generally accepted lifestyle
6 standard of the community where the family lives. However, this **subsection**
7 [SECTION] may not be construed to prevent a court from finding that a child is in
8 need of aid if the child has been subjected to conduct or conditions described in
9 AS 47.10.011 - 47.10.015.

10 * **Sec. 3.** AS 47.10.019 is amended by adding a new subsection to read:

11 (b) Notwithstanding other provisions of this chapter, a court may not find a
12 minor to be a child in need of aid and the department may not initiate an investigation
13 or take custody of a child, including emergency custody, solely based on an allegation
14 or finding that the child's parent or other person having the care and custody of the
15 child has refused to consent to

16 (1) the administration of a psychotropic drug to the child;

17 (2) a psychiatric, psychological, or behavioral treatment for the child;

18 or

19 (3) a psychiatric or behavioral health evaluation of the child.